

DONALD W. FITZGERALD, State Bar No. 095348  
 THOMAS A. WILLOUGHBY, State Bar No. 137597  
 JENNIFER E. NIEMANN, State Bar No. 142151  
 FELDERSTEIN FITZGERALD  
 WILLOUGHBY & PASCUZZI LLP  
 400 Capitol Mall, Suite 1750  
 Sacramento, CA 95814  
 Telephone: (916) 329-7400  
 Facsimile: (916) 329-7435  
 dfitzgerald@ffwplaw.com  
 twilloughby@ffwplaw.com  
 jniemann@ffwplaw.com

Attorneys for Zacky Farms, LLC

UNITED STATES BANKRUPTCY COURT  
 EASTERN DISTRICT OF CALIFORNIA  
 SACRAMENTO DIVISION

In re:

ZACKY FARMS, LLC, a  
 California limited liability  
 company,

Debtor-In-Possession.

CASE NO. 12-37961-B-11

DCN: FWP-19

Date: March 26, 2013  
 Time: 9:32 a.m.  
 Courtroom: 32  
 501 I Street, 6th Floor  
 Sacramento, CA

**EXHIBITS TO SECOND NOTICE OF (1) DESIGNATION OF OTHER  
 CONTRACTS TO BE ASSUMED AND (2) EVIDENCE IN SUPPORT OF  
 FINDING OF ADEQUATE ASSURANCE OF FUTURE PERFORMANCE**

Exhibit	Description
A	Contracts Being Assumed
B	Declaration of Lillian Zacky Related to Adequate Assurance of Future Performance in Respect to Designated Assumed Contracts filed on February 7, 2013 as Docket No. 976

Dated: March 12, 2013

FELDERSTEIN FITZGERALD  
 WILLOUGHBY & PASCUZZI LLP

/s/ Thomas A. Willoughby  
 THOMAS A. WILLOUGHBY  
 Attorneys for Zacky Farms, LLC

# EXHIBIT A

## EXHIBIT A

## OTHER CONTRACTS BEING ASSUMED

Vendor Name	Type	Contract Date	Cure Amount
Adecco	Staffing Supplier Agreement	11/10/05	\$0.00
Cargill Meat Solutions	Continuing Guaranty and Indemnification	8/23/11	\$0.00
Carl Buddig and Co.	Continuing Product Guarantee Indemnity Agreement	10/1/12	\$0.00
Carl Buddig and Co.	Supplier Products Requirements	10/1/12	\$0.00
City of Fresno	Improvement Agreement	2/26/03	\$0.00
Data Burst Technologies, Inc.	iTRAK Order Form	6/29/07	\$0.00
Fiore Di Pasta, Inc.	Warehouse Receipt and Storage Contract and Hold Harmless Agreement	2/14/11	\$0.00
Foster Farms, Inc.	Shared Services Agreement	March 2001	\$2,273,143.19
Foster Farms, Inc.	Trademark Licensing Agreement and related obligations	March 2001	\$0.00
Grayrose Marketing Group, Inc.	Confidentiality Agreement	1/12/12	\$0.00
Grayrose Marketing Group, Inc. dba Country Comfort Foods	Hold Harmless Agreement and Guaranty/Warranty of Product; Manufacturing Agreement	1/12/12	\$0.00
INFOR Global, successor to Computer Associates International, Inc.	License Agreement	9/30/1998	\$0.00
M. Reyes Ag.	Labor Contractor Agreement	7/31/06	\$0.00
Manhattan Associates, LLC	License Agreement	7/30/96	\$0.00
Matrix Imaging Products	Purchase Order re: Software, License, RF Terminal, etc.	10/4/12	\$0.00
MD Risk Management Solutions	Service Agreement for Medical Management Services	8/1/11	\$0.00
Meadowbrook Meat Company, Inc. d/b/a MBM Corporation	Supplier Agreement	9/20/10	\$0.00
Newly Weds Foods, Inc.	Floor Stock Agreement	5/25/05	\$0.00
Nexus, Integration Services	Service Agreement	10/27/09	\$240.00
Nova-Tech Engineering LLC	Nova-Tech Poultry Services Processor Lease and Limited Lease Agreement	11/8/11	\$6,840.94
Nova-Tech Engineering, Inc.	Agreement	10/19/00	[Amount above is outstanding across all contracts.]
Nova-Tech Engineering, Inc.	Nova-Tech Declawing System Lease and Limited License Agreement	3/12/99	[Amount above is outstanding across all contracts.]
Olympic Compactor Rentals, Inc.	Olympic Compactor Rental Agreement	11/28/94	\$460.06
PMV Farm Labor Services	Labor Contractor Agreement	7/23/06	\$0.00

<b>Vendor Name</b>	<b>Type</b>	<b>Contract Date</b>	<b>Cure Amount</b>
Renberg - Trogdon & Cavale Insurance Services	Business Associate Agreement	11/1/10	\$0.00
Renberg - Trogdon & Cavale Insurance Services	Insurance Broker Consulting Agreement	11/1/10, as amended 9/28/12	\$0.00
The Spectrum Group	Poultry Manure Sales and Services Agreement	3/1/12	\$4,875.00
Trader Joe's Company	Master Vendor Agreement	3/23/10	\$0.00
Trebron Company, Inc.	Software Agreement	9/15/10	\$4,330.00
UFCW Local 8	Subcontracting Fresno Sanitation Classification to Outside Sanitation Contractor	7/11/12	\$0.00
Wavelink	License Agreement		\$0.00

# EXHIBIT B

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In re:

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CASE NO. 12-37961-B-11

DCNs: FWP-16, FWP-17, FWP-18 and  
FWP-19

Date: February 20, 2013  
Time: 2:00 p.m.  
Courtroom: 32  
501 I Street, 6th Floor  
Sacramento, CA

**DECLARATION OF LILLIAN D. ZACKY RELATED TO ADEQUATE ASSURANCE  
OF FUTURE PERFORMANCE IN RESPECT TO DESIGNATED ASSUMED  
CONTRACTS**

I, Lillian D. Zacky, hereby declare as follows:

1. I am the Trustee of the Robert D. Zacky and Lillian D. Zacky Trust dated July 26, 1988 (the "Zacky Trust"), the proposed purchaser of substantially all of the assets of Zacky Farms, LLC ("Debtor"). Unless otherwise noted herein, I make this Declaration from my own personal knowledge and would and could competently testify thereto.

2. I submit this declaration in support of the motions of the Debtor to assume and assign certain contracts and nonresidential real property leases as part of a sale of substantially all of its assets free and clear of liens, claims, encumbrances and other interests to the Zacky Trust

1 (“Buyer”) pursuant to the terms and conditions of that certain Asset Purchase Agreement, dated  
2 February 6, 2013 (together with all exhibits and schedules as may be further amended, the  
3 “Agreement”), and particularly as to the adequate assurance of future performance of the Buyer  
4 in respect to the Assumed Contracts.<sup>1</sup> Specifically:

5 a. (FWP-16) Motion for Authority to Assume and Assign Certain Unexpired  
6 Nonresidential Real Property Leases in Connection with the Proposed Sale of Substantially All of  
7 the Debtor’s Assets;

8 b. (FWP-17) Motion for Authority to Assume and Assign Certain Grower  
9 Contracts in Connection with the Proposed Sale of Substantially All of the Debtor’s Assets;

10 c. (FWP-18) Motion for Authority to Assume and Assign Certain Supply  
11 Contracts in Connection with the Proposed Sale of Substantially All of the Debtor’s Assets; and

12 d. (FWP-19) Motion for Authority to Assume and Assign Certain Unexpired  
13 Other Executory Contracts and Leases in Connection with the Proposed Sale of Substantially All  
14 of the Debtor’s Assets.

15 3. In my capacity as Trustee of the Zacky Trust, I was responsible for the negotiation  
16 of the Agreement and am responsible for the implementation and performance of the Zacky Trust  
17 as the Buyer under the Agreement.

18 4. The Zacky Trust is a 50% member of the Debtor. The Zacky Trust, as assignee of  
19 Wells Fargo Bank, National Association asserts a security interest in the Debtor’s accounts  
20 receivables, goods, inventory, equipment and other assets as described in several security  
21 agreements and a UCC-1 financing statement filed on November 17, 2009. The Zacky Trust also  
22 asserts a security interest as the post-petition lender to secure the DIP Facility as set forth in the  
23 Final Order Approving the DIP Facility (Dkt. No. 292) and incorporated herein by reference.

24 5. The Zacky Trust has the ability to close on the proposed purchase of the Acquired  
25 Assets as set forth in the Agreement, and to provide the requisite “adequate assurance of future  
26 performance” to parties whose executory contracts and unexpired leases will be assumed by the  
27 Debtor and assigned to the Buyer as of the Closing Date. Pursuant to the Agreement, the Buyer is

28 <sup>1</sup> All Capitalized terms not defined herein have the meaning set forth in the Asset Purchase Agreement.

1 purchasing substantially all of the assets of the Debtor. Buyer is assuming only leases that are  
2 profitable and essential to the operation of the business and based on the new Business Plan it is  
3 established there will be adequate funds to make lease payments on a timely basis. To the extent  
4 additional funds are needed, Buyer has adequate funds to fund as necessary. Accordingly, the  
5 Buyer has demonstrated the financial credibility, willingness, and ability to perform its  
6 obligations under each of the executory contracts and unexpired leases that may be designated as  
7 Assumed Contracts pursuant to the terms of the Agreement.

8 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
9 February 7, 2013 at Los Angeles, California.

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12 LILLIAN D. ZACKY  
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